

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Sanaz Sarah Bereliani, Esq. 256465 11400 W. Olympic Blvd., Suite 200 Los Angeles, CA 90064 (818) 920-8352 Fax: (888) 876-0896 256465 CA berelianilaw@gmail.com		FOR COURT USE ONLY	
<input type="checkbox"/> <i>Debtor's appearing without attorney</i> <input checked="" type="checkbox"/> <i>Attorney for: Debtor</i>			
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA			
In re: Blanca Araceli Michel		CASE NUMBER: 1:18-bk-11625-MT	
		CHAPTER: 13	
		DEBTOR'S NOTICE OF MOTION AND MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]	
Debtor(s).		DATE: October 23, 2018 TIME: 11:00AM COURTROOM: 302 ADDRESS: 21041 Burbank Blvd. Woodland Hills, CA 91367	
TO CREDITOR HOLDING JUNIOR LIEN (name): Trinity Financial Services, LLC			

1. **NOTICE IS HEREBY GIVEN** that on the above date, time and place in the indicated above, Debtor in the above-captioned case will move this court for an order granting the relief set forth in the motion and accompanying supporting documents served and filed herewith.
2. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one. *(If you do not have an attorney, you may wish to consult one.)*
3. **Deadline for Opposition Papers:** This Motion is being heard on regular notice pursuant to LBR 9013-1. If you wish to oppose this motion, you must file a written response with the court and serve a copy of it upon the Movant or Movant's attorney at the address set forth above no less than 14 days prior to the above hearing date. If you fail to file a written response to this Motion within such time period, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.
4. **Hearing Date Obtained Pursuant to Judge's Self-Calendaring Procedure:** The undersigned hereby verifies under penalty of perjury under the laws of the United States of America that the above-stated hearing date and time were available for this type of Motion according to the self-calendaring procedures of the assigned judge, *(specify name of judge)* Judge Maureen A Tighe.

"Bankruptcy Code" and "11 U.S.C." refer to the United States Bankruptcy Code, Title 11 of the United States Code. "FRBP" refers to the Federal Rules of Bankruptcy Procedure. "LBR" and "LBRs" refer to the Local Bankruptcy Rule(s) of this court.

Executed on (date): September 24, 2018

Bereliani Law Firm, PC

Printed name of law firm (if applicable)

Sanaz Sarah Bereliani, Esq. 256465

Printed name of Debtor or Attorney for Debtor

/s/ Sanaz Sarah Bereliani, Esq.

Signature of Debtor or Attorney for Debtor

MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]
(DEBTOR: Blanca Araceli Michel)

NAME OF CREDITOR HOLDING JUNIOR LIEN (Respondent): Trinity Financial Services, LLC

1. Subject Property: Debtor moves to avoid the junior deed of trust, mortgage or other encumbrance (Lien) encumbering the following real property (Property), which is the principal residence of debtor.

Street address: 10522 Cayuga Ave
Unit number: _____
City, county, state, zip code: Pacoima, CA 91331

Legal description and /or map/book/page number, including county of recording:

☒ See attached page for legal description of Property or document recording number. Attached hereto and identified as Exhibit B.

2. Subject Lien

Date and place of recordation of lien recording instrument number and document recording number (specify)
Filed 02/17/2006 at the Los Angeles County Recorder's Office, Instrument Number 06 0367615

3. Case History:

a. A voluntary petition under Chapter ☐ 7 ☐ 11 ☐ 12 ☒ 13 of the Bankruptcy Code, 11 U.S.C. was filed in this case on (specify petition date): 06/27/2018

b. ☐ An Order of Conversion to Chapter 13 was entered in this case on (specify date): _____

4. Grounds for Avoidance of Junior Lien:

a. As of (date of title review) 07/24/2018, the Property is subject to the following liens in the amounts specified securing the debt against the Property that the Debtor seeks to have treated as indicated:

(1) (Name of holder of 1st lien) Selene Financial in the amount of \$520,975.00.

(2) (Name of holder of 2nd lien) Trinity Financial Services, LLC in the amount of \$196,448.68 ☒ is ☐ is not to be avoided;

(3) (Name of holder of 3rd lien) _____ in the amount of \$ _____ ☐ is ☐ is not to be avoided;

☐ See attached page for additional lien(s).

As of (date of valuation/appraisal) 09/01/2018, Property is worth no more than (value per valuation/appraisal) \$460,000.00.

b. As shown here, the Creditor holding the judicial lien encumbering the Property is wholly unsecured.

c. Evidence in Support of Motion:

(1) ☒ The amount of the lien identified in paragraph 3(a)(1) is based on (type of evidence) mortgage statement/loan modification statement, attached hereto and identified as Exhibit D.

(2) ☒ The amount of the lien identified in paragraph 3(a)(2) is based on (type of evidence) proof of claim, attached hereto and identified as Exhibit E.

(3) ☐ The amount of the lien identified in paragraph 3(a)(3) is based on *(type of evidence)* , attached hereto and identified as Exhibit ____.

(4) ☒ The relative priority of the liens encumbering the Property is established by evidence attached as Exhibit C/E.

(5) ☒ The value of the Property from paragraph 3(b) is based on *(type of evidence)* Appraisal, attached as Exhibit F.

(6) ☒ Debtor submits the attached Declaration(s).

(7) ☐ Other evidence *(specify/identify supplemental evidence)*: _____ attached as Exhibit ____.

WHEREFORE, Debtor requests that this court issue an order granting this motion in the form of the **Attachment** to this motion. *(Attach a separate Attachment for each lien to be avoided.)*

Date: September 24, 2018

Respectfully submitted,

/s/ Sanaz Sarah Berellani, Esq.

Signature of Debtor or Attorney for Debtor

Sanaz Sarah Berellani, Esq. 256465

Printed name of Debtor or Attorney for Debtor

ATTACHMENT TO MOTION/ORDER
(11 U.S.C. § 506: VALUATION/LIEN AVOIDANCE)

This court makes the following findings of fact and conclusions of law:

1. **Creditor Lienholder/Service:** Trinity Financial Services, LLC.

2. **Subject Lien:** Date and place of recordation of lien (*specify*): _____

Filed 02/17/2006 at the Los Angeles County Recorder's Office, Instrument Number 06 0367615

Recorder's instrument number and/or document recording number: _____

3. **Collateral:**

a. Real property (street address, city, county and state, where located, legal description or map/book/page number, including county of recording):
10522 Cayuga Ave., Pacoima, CA 91331 . ☒ See attached page.

b. Other collateral: _____ . ☐ See attached page.

4. **Secured Claim Amount**

a. Value of Collateral: \$460,000.00

b. Senior Liens (reducing equity in the property to which the Subject Lien can attach):

(1) First lien: (\$520,975.00)

(2) Second lien: (\$196,448.68)

(3) Third lien: (\$)

(4) Additional senior liens (*attach list*): (\$)

Subtotal: (\$717,423.68)

c. Secured Claim Amount (negative results should be listed as -\$0-): -\$0-

Unless otherwise ordered, any allowed claim in excess of this Secured Claim Amount is to be treated as a nonpriority unsecured claim and is to be paid pro rata with all other nonpriority unsecured claims in Class 5A of the Plan.

5. **Lien avoidance:** Debtor's request to avoid the Subject Lien is granted as follows. The effective date of avoidance of the Subject Lien (Lien Avoidance Effective Date) will be upon:

☒ completion of the Chapter 13 Plan, or ☒ receipt of a Chapter 13 discharge in this case.

6. **Retention of lien until avoidance:** The Creditor Lienholder will retain the Subject Lien for the full amount due under the corresponding note and deed of trust, mortgage or lien if the Debtor's Chapter 13 case is dismissed or converted to any other chapter under the Bankruptcy Code, or if the Collateral is sold or refinanced, prior to the Lien Avoidance Effective Date.

7. **Retention of rights upon foreclosure of other lien:** In the event that the holder of any other lien on the Collateral forecloses on its interest and extinguishes the Creditor Lienholder/Service's lien rights prior to the Lien Avoidance Effective Date, the Creditor Lienholder's lien shall attach to any proceeds greater than necessary to pay the senior lien(s) from the foreclosure sale.

☐ See attached page(s) for more liens/provisions.


DECLARATION OF DEBTOR

DECLARATION OF BLANCA MICHEL

I, Blanca Michel, hereby declare as follows:

1. That I am the Debtor in the Chapter 13 Case No.: 1:18-bk-11625-MT filed on June 27, 2018. I have personal knowledge of the following facts and testify hereto that if called upon as a witness, I could and would competently testify thereto in a court of law.
2. I am the owner of the real property located at 10522 Cayuga Ave, Pacoima, CA 91331 (the "Real Property"). I live on the Real Property and disclosed it on my bankruptcy schedules. A true and correct copy of Schedule A is attached as **Exhibit "A"** and is incorporated herein by this reference. A true and correct copy of the legal description of the Legal Description of the Real Property is attached as **Exhibit "B"** and is incorporated herein by this reference.
3. The Real Property is subject to a first deed of trust in favor of Selene Finance LP, successor in interest to Just Mortgage, Inc. A true and correct copy of the deed of trust is attached as **Exhibit "C"** and is incorporated herein by this reference. The current balance owed is approximately \$520,975.00. A true and correct copy of a mortgage and loan modification statement is attached as **Exhibit "D"** and is incorporated herein by this reference.
4. The Real Property is subject to a second deed of trust in favor of Trinity Financial Services, LLC, successor in interest to Just Mortgage, Inc. A true and correct copy of the deed of trust is attached as **Exhibit "E"** and is incorporated herein by this reference. The current balance owed is approximately \$196,446.68. A true and correct copy of the Proof of Claim is attached as **Exhibit "E"** and is incorporated herein by this reference.
5. I determined the value of the property through an appraisal conducted by appraiser David Serber. A true and correct copy of the real property appraisal is attached as **Exhibit "F"** and is incorporated herein by this reference. Accordingly, I believe my home to be worth \$460,000.00

1 I declare under penalty of perjury under the laws of the United States that the foregoing is true
2 and correct to the best of my knowledge. Executed on this 24th day of September, 2018 at Los
3 Angeles, California.

4
5 
6 Blanca Araceli Michel

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
11400 W. Olympic Blvd., Suite 200
Los Angeles, CA 90064

A true and correct copy of the foregoing document entitled (*specify*): Debtor's Notice and Motion to Avoid Junior Lien on Principal Residence will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) September 24, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

ECF PARTY: Valerie Smith, claims@recoverycorp.com
ATTORNEY FOR DEBTOR: Sanaz S Bereliani, berelianilaw@gmail.com
CHAPTER 13 TRUSTEE: Elizabeth (SV) Rojas (TR), cacb_ecf_sv@ch13wla.com
ATTORNEY FOR CREDITOR: Austin P Nagel, melissa@apnagellaw.com
ATTORNEY FOR CREDITOR: Rafael R Garcia-Salgado, rgarcia@bwslaw.com
ATTORNEY FOR CREDITOR: Richard J Reynolds, rreynolds@bwslaw.com
UNITED STATES TRUSTEE (SV), ustpreion16.wh.ecf@usdoj.gov

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:** On (date) September 24, 2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR	JUDGE
Blanca Araceli Michel	Honorable Maureen A. Tighe
10522 Cayuga Ave	21041 Burbank Boulevard, Suite 324
Pacoima, CA 91331	Woodland Hills, CA 91367

☒ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

September 24, 2018 Chris Ugarteche
Date Printed Name

/s/ Chris Ugarteche
Signature

SERVED BY UNITED STATES MAIL, CERTIFIED MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

(Attached page to Proof of Service of Document-please include any additional or alternative addresses and attach additional pages if needed)

(Certified Mail required for service on a national bank.)

1st lienholder (name and address) Selene Finance LP Attn: Joseph A. Pensabene, CEO 9990 Richmond Avenue, Suite 100 Houston, TX 77042	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify):	Delivery Method <input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
1st lienholder (name) and Agent for Service of Process (name and address) Selene Finance LP c/o CT Corporation System 818 W. Seventh Street, Suite 930 Los Angeles, CA 90017	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify):	Delivery Method <input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
1st lienholder (name) and Servicing Agent (name and address) Selene Finance LP Attn: Joseph A. Pensabene, CEO PO Box 71243 Philadelphia, PA 19176	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input checked="" type="checkbox"/> Other: (specify): mortgage statement	Delivery Method <input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

2nd lienholder (name and address) Trinity Financial Services, LLC Attn: Don Madden, President 2618 San Miguel Drive, Suite 303 Newport Beach, CA 92660	Address from: <input checked="" type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify):	Delivery Method <input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
2nd lienholder (name) and Agent for Service of Process (name and address) Trinity Financial Services, LLC c/o Registered Agent Solutions, Inc. 1220 S Street, Suite 150 Sacramento, CA 95811	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify):	Delivery Method <input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
2nd lienholder (name) and Servicing Agent (name and address) Trinity Financial Services, LLC Attn: Don Madden, President 1621 Central Avenue Cheyenne, WY 82001	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify):	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

3rd lienholder (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify):	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____
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		<input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
3rd lienholder (name) and Agent for Service of Process (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify): _____	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
3rd lienholder (name) and Servicing Agent (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify): _____	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

Alternative/Additional Address (name and address) ATTORNEYS FOR CREDITOR Trinity Financial Services, LLC c/o Burke Williams & Sorensen, LLP 1851 E. First Street, Suite 1550 Santa Ana, CA 90071	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input checked="" type="checkbox"/> Other: (specify): PACER	Delivery Method <input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
Alternative/Additional Address (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: (specify): _____	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____